

[Assembly Bill 737](#) (Hernandez)

Date: 03/26/15

Program: Sales and Use

Sponsor: Author

Revenue and Taxation Code 6066.3

Effective: January 1, 2016

Michele Pielsticker (Chief) 916.322.2376

Sheila Waters (Analyst) 916.445.6579

**Summary:** Extends from 30 to 35 days the period in which the Board of Equalization (BOE) must determine whether to issue a seller's permit to a person based on city or county-submitted information.

**Purpose:** To give the BOE an additional five days to review city- and county-submitted information to determine whether to issue a seller's permit to a person.

**Fiscal Impact Summary:** No material impact to state or local revenues.

**Existing Law:** Under existing law,<sup>1</sup> California's sales tax is paid by retailers engaged in business in the state and applies to all retail transactions involving sales of tangible personal property, except those the law specifically exempts or excludes. The use tax generally applies to the storage, use or other consumption in this state of goods consumers purchase from retailers in transactions not subject to the sales tax. The statewide rate for both the sales and use tax is currently 7.5%, which is the combined state and local rates, excluding special district rates.

Under the law,<sup>2</sup> the BOE collects and distributes local sales and use tax revenue to all California cities and counties. As a component of the 7.5% combined statewide rate, the BOE allocates one percent to cities and counties. Of that one percent, incorporated cities generally receive 0.75% for sales made within their boundaries; counties receive 0.75% for sales made within unincorporated areas; and the BOE allocates the remaining 0.25% to counties for transportation projects.

Under the law,<sup>3</sup> every person that desires to engage in or conduct business within this state and make tangible personal property sales or leases that are ordinarily subject to tax is required to file with the BOE an application for a "seller's permit" for each place of business. A person who engages in business as a seller in this state without a permit, and each officer of any corporation that so engages, is guilty of a misdemeanor, punishable by a fine or imprisonment, or both.

Under the law,<sup>4</sup> cities and counties are authorized to obtain information regarding a seller's permit application from retailers desiring to engage in business in their jurisdictions and submit that information to the BOE. The law requires the BOE to accept that information as a preliminary application for a seller's permit and also as notice to the BOE for purposes of redistributing local tax improperly allocated to local jurisdictions. These provisions also specify the following:

1. Within 30 days of receiving the local jurisdiction information, the BOE is required to issue a determination regarding the issuance of a seller's permit if that determination can be made based on the information provided or within 120 days in cases where additional information is required.
2. The BOE is required to consult with the League of California Cities and the California State Association of Counties to adopt standardized address and name conventions for new registrants, and if feasible, for current accounts.

---

<sup>1</sup> Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code (RTC).

<sup>2</sup> The Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5, commencing with Section 7200, of Division 2 of the RTC).

<sup>3</sup> Article 2 (commencing with Section 6066) of Division 2 of the RTC.

<sup>4</sup> RTC Section 6066.3, added by AB 990 (Ch. 908, Stats. 1999) and extended by SB 1062 (Ch. 471, Stats. 2003).

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

**Proposed Law:** This bill gives the BOE five additional days to determine whether a seller's permit shall be issued to a person (from 30 days to 35 days) in situations where cities and counties submit seller's permit application information to the BOE.

**Commentary:**

**This bill may assist in some situations.** Some local jurisdictions submit 10-30 accounts per month to the BOE. Usually, the BOE is able to determine whether a permit is required. Other local jurisdictions submit 75 to 100 accounts that may need a seller's permit. Due to the volume, occasionally the BOE needs additional time to make its determination to comply with the law. The additional 5 days may provide some assistance in these situations.

**Administrative Costs:** The administrative cost impact would be insignificant.

**Revenue Impact:** This bill would not materially affect state or local revenues.